Modified PTO/SB/33 (10-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number Q64260	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 09/841,249	Filed April 25, 2001
	First Named Inventor Kazuo KURODA	
	Art Unit 2132	Examiner Minh Dinh

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23373
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Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

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June 5, 2008
Date

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Kazuo KURODA, et al.

Docket No: Q64260

Appln. No.: 09/841,249

Group Art Unit: 2132

Confirmation No.: 5288

Examiner: Minh Dinh

Filed: April 25, 2001

For: INFORMATION DISTRIBUTING APPARATUS AND METHOD, INFORMATION RECORDING MEDIUM, AND INFORMATION RECORDING APPARATUS AND METHOD

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated February 8, 2008, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 25-31 and 33-43 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over EP 0802527 to Oshima et al. ("Oshima") in view of the publication, *The Dynamic Digital Disk*, by A. Bell ("Bell"). Applicant respectfully submits that this rejection is in error and should be withdrawn.

The Examiner addresses claim 31 stating that claim 31 is representative of claims 25-28, 33-35, 37-38 and 40-41. The Examiner alleges that the generating device recited in claim 31 is disclosed in col. 11, lines 22-49 in Oshima. Applicant respectfully disagrees.

The encipherment part 859 described in Fig.10 obtains an ID recorded in the Burst Cutting Area (BCA) of a RAM disc via a network, and enciphers the contents by utilizing a key including the obtained ID. Then, the encipherment part 859 transmits the enciphered contents to the recording apparatus via the network. The recording apparatus records the enciphered contents on the RAM disc.

On the other hand, with exemplary embodiments of the present invention, the generating device in ***the information distributing apparatus generates an encryption key for itself*** without obtaining any information, such as an ID, from an external source. Thus, the generating device recited inclaim 31 is different from the encipherment part 859.

Further, the encryption key is the same as that recorded in a recordable disc in advance. It is therefore unnecessary to transmit/receive the encryption key on a network. However, in Oshima, the key generated in the encipherment part 859 is different from the ID recorded in the BCA of the RAM disc in advance. For these additional reasons, the generating device recited in claim 31 is different from the encipherment part 859.

Therefore, for at least the above reasons, Oshima does not disclose or suggest the generating device recited in claim 31, as alleged by the Examiner.

Applicant now addresses the Examiner's Response to Arguments. In the Response to Arguments section of the February 8 Office Action, the Examiner states:

> "First, any information recording medium is inherently recordable. If Bell's DVD-ROM were not a recordable information recording medium, then how could encrypted information be recorded in the DVD?"

Applicant respectfully submits that the Examiner's understanding is incorrect.

DVD-ROM discs are produced by physically stamping encoded information onto a poly carbonate substrate. As with a CD-ROM, data is transferred to a master stamper and replicates are produced by pressing the discs from the master. To one of ordinary skill in the art in the technical field of DVD, DVD-ROM discs are referred to as "pre-recorded discs," but not as "recordable discs." Recordable discs, such as DVD-R discs, have a recordable dye that, when exposed to a concentrated laser beam, allows information to be encoded or burned into the disc. Thus, to one of ordinary skill in the art in the technical field of DVD, "recordable discs" are discs on which information can be recorded by using a laser beam. Therefore, Applicant respectfully submits that the Examiner's assertion is inappropriate.

Further, the Examiner states:

> "Oshima already discloses a recordable information recording medium wherein distributed and encrypted information can be decrypted by the encryption key recorded in the encryption key recording area (fig. 10; col. 11, lines 22-49). Bell is relied upon for the teaching of utilizing CSS scheme in conformity with DVD-VIDEO standard, which Oshima lacks."

However, Applicant respectfully submits that this understanding is also incorrect.

Generally, the Content Scrambling System (CSS) scheme is utilized for DVD-ROM, but is not utilized for recordable discs, such as DVD-R, DVD-RW. Therefore, in conventional

recordable disc recording apparatuses, contents are not encrypted by using CSS when the contents are recorded in the recordable discs.

However, with exemplary embodiments of the present invention, the contents have been already encrypted by using CSS, and then distributed to a recording apparatus. Therefore, it is unnecessary to encrypt the contents by using CSS in the recording apparatus.

Oshima discloses that encrypted contents are transmitted from a recording block (encipherment part 859) to a recording apparatus (recording circuit 862 in the recorder). However, as the Examiner understands, Oshima does not utilize CSS. Therefore, it is presumed that Oshima encrypts the contents by utilizing Copy Protection for Recordable Media (CPRM), which is generally utilized in the technical field of DVD-RAM. CPRM is generally permitted to be utilized for DVD-RAM, so that Oshima does not always need to locate the recording block (encipherment part 859) out of the recording apparatus. Based on the disclosure of Oshima, it is possible to locate the recording block in the recording apparatus and encrypt the contents by utilizing CPRM. On the other hand, since CSS is not utilized in the conventional recording apparatus, it is necessary to distribute the CSS encrypted contents to the recording apparatus.

Thus, the idea of utilizing CSS for recordable discs is not disclosed or suggested the references, alone or in combination. Further, the combination of Oshima and Bell does not disclose or suggest the encrypting device and the distributing device recited in claim 31. Therefore, one of ordinary skill in the art would not be motivated to modify Oshima by utilizing CSS as described in Bell without inventive effort, as alleged by the Examiner.

In view of the above considerations, the 35 U.S.C. § 103(a) rejection of claim 31 is in error and should be withdrawn. Since claim 31 is representative of claims 25-28 and 40-41, applicant submits that the rejection of these claims, as well as dependent claims 29, 30, 42 and 43, are also in error and should be withdrawn.

Applicant intends to cancel claims 33-39. Therefore, no arguments for the patentability of these claims have been provided.

Respectfully submitted,

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